



CITY OF HAYWARD AGENDA REPORT

Meeting Date 04/22/04
Agenda Item 3

TO: Planning Commission

FROM: Erik J. Pearson, AICP, Associate Planner

SUBJECT: **Variance No. PL-2004-00079** – Request to Install Two Logo Signs on The Roof of an Existing Fast Food Restaurant (KFC) Where Roof Signs Are Prohibited and Where The Height of The Signs Exceed 24" (48" proposed) – David Grace for Sign Designs (Applicant)/ Harman Management (Owner)

The property is located at 1299 W. Tennyson Road, at the corner of Patrick Avenue, in a Neighborhood Commercial (CN) Zoning District

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15305 *Minor Alterations in Land Use Limitations*; and
2. Deny the variance application subject to the attached findings.

DISCUSSION

In conjunction with drive-in restaurants, the Zoning Ordinance allows two wall signs consisting of 18-inch high letters and/or 24-inch high logos, one monument sign, and minor directional signs. The City's Sign Regulations prohibit roof signs in all zoning districts and for all uses. Roof signs are defined as "a sign painted or erected on or extending above the roof or parapet of any building or structure." Because the applicant is requesting to remove the two existing roof edge signs consisting of the letters "KFC" and to add two, internally illuminated 48-inch-high logo signs on the sides of the cupola above the main roof, approval of a variance is necessary. The proposal to replace the two roof signs with two logo signs on the sides of the cupola is part of an overall corporate image update which places more emphasis on the company's logo rather than the written name. The corporate plan includes placing these logos on the cupolas.

Currently, the site is identified by a 37-square-foot monument sign at the corner of Patrick and West Tennyson, two 24-inch-high roof signs, and four 7-square-foot directional signs bearing the KFC logo (one enter and one exit sign at each driveway). These directional signs exceed the sign size and percentage of logo allowed by the Sign Regulations. Directional signs are limited to

no more than 6-square feet, and logos thereon are limited to a maximum of 20 percent of the sign: Logos cover about 50 percent of the KFC directional signs. The store is currently enjoying more signage than the Sign Regulations allow.

In 1987, the City Council approved a use permit and variance to construct the drive-through restaurant. The Council's action included a variance to allow the two roof signs on the edge of the roof. In approving the roof signs, consideration was given to the fact that no monument sign was being considered at the time and that the building walls are somewhat obscured by the overhang of the building and the vehicles queuing in the drive-through lane. At that time there was a request to install a sign on the cupola, but Council denied the request. It was noted that the building architecture (especially with the cupola structure) served as a corporate identifier and that the sign on the cupola was unnecessary. In 1993 a monument sign was added and the roof signs, reading "Kentucky Fried Chicken" were replaced with 7-square-foot "KFC" signs, which are, due to the smaller size, less visible. Since Council's decision to deny the cupola sign in 1993, the amount of sign area has increased due to the addition of the monument and directional signs.

One of the purposes of the City's Sign Regulations is to preserve and improve the appearance of the City as a place in which to live and work. This is accomplished, in part, by allowing signs that are low and directed toward motorists and pedestrians. Low signs that are directed to motorists and pedestrians are also encouraged by the City's Design Guidelines. Signs that are tall or are located on roofs can be blocked by required trees. When this occurs, trees are sometimes removed or topped to increase the visibility of the signs, which detracts from the streetscape. This may have occurred at the subject site as the trees have been topped and some are missing. If the trees approved in the 1988 building plans had been allowed to grow naturally, visibility of the roof and cupola would likely be obscured. The missing trees are required to be replaced regardless of the action taken on the variance application. An example of this condition can be found at the KFC at Fairway Park where the cupola is largely hidden from view from the street by large trees in front of the building. Situated at the southernmost entry to the Harder Tennyson neighborhood, illuminated logos on the cupola could be viewed from nearby residences and could be considered an unnecessary intrusion.

Approval of a variance requires a determination that the property in question has special conditions or circumstances peculiar to the property involved that do not apply generally to property in the same district. Located at a prominent intersection with no obstructions to interfere with line of sight from motor vehicles, there is nothing unusual about the property that would justify larger signs or signs placed on the cupola.

The applicant claims that the existing 2-foot tall "KFC" letters on the roof cannot be seen from the road, causing a loss in business. Staff agrees that the KFC letters are not in the most prominent location and are not readily seen by motorists coming onto West Tennyson Road from the freeway. However, a remedy may be to relocate these signs to a more prominent position on the edge of the roof. Regardless, in staff's opinion, the restaurant's prominent location, its architecture, the conspicuous location of the monument sign at the corner of West Tennyson Road and Patrick Avenue, and the directional signs adequately and effectively portray the KFC corporate image.

The Sign Regulations state that a variance may be granted if, "Literal interpretation of this article would cause a hardship or deprive the applicant of rights enjoyed by others in the same district." The applicant claims that the City has caused a hardship on KFC due to the time taken to address the signage for the restaurant and misinformation they received during the initial review of their sign proposal. While staff acknowledges and regrets that misinformation was initially provided regarding the City's Sign Regulations, the reference of a hardship in the Sign Regulations means that denial of the sign variance would cause a hardship as it relates to adequate identification through the means of a sign(s). In staff's opinion, denial of the variance would not cause a hardship.

Approval of a variance also requires that the proposal not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated. The applicant submitted photographs of other fast food establishments with signs mounted on, above or near the roof. (See Exhibit C.) The photographs include Jack-in-the-Box, Taco Bell, Burger King and 31 Flavors. The Burger King and 31 Flavors signs do not have any roof element below the signs and are conforming signs. All other roof signs were established prior to 1984 when the current sign regulations for drive-in restaurants were adopted. Therefore, other restaurants cited by the applicant do not set a precedent.

With regard to other Hayward KFC restaurants, the KFC at 22872 Main Street has a sign on the cupola, which was approved in 1986 (UP & VA 86-69). No other signs were requested at that time because the applicant indicated that the cupola sign alone was sufficient for the site. A variance application was not required for the cupola sign at that time. The KFC drive-through restaurant at the Fairway Park shopping center was approved in 1985. That application involved roof signs and a sign on the face of the cupola. The cupola sign was not approved, citing that the "two roof signs and the cupola sign would be excessive." The roof signs on the Fairway Park KFC are similar to those currently on the subject KFC.

Since adoption of the Sign Ordinance prohibiting roof signs, the Planning Commission has been consistent in requiring their removal as part of a use permit approval (motorcycle shop at Mission and Sunset and the motorcycle shop on Foothill). In staff's opinion, approval of the variance could constitute a grant of a special privilege and possibly set an unfavorable precedent.

ENVIRONMENTAL REVIEW

The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15305, *Minor Alterations in Land Use Limitations*.

PUBLIC NOTICE

On March 9, 2004, an Official Notice was sent to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to the Tennyson-Alquire Homeowners Association, Harder-Tennyson Community Organization, South Hayward Neighborhood Group, Harder-Tennyson Neighborhood Task Force and the Tennyson-Alquire Neighborhood Task Force.

One phone call and one e-mail (attached) were received from neighbors who objected to the proposal. Complaints included trash, odors, noise, traffic, a proliferation of signs in the area and prostitution and drug dealing in the parking lot. Information about the alleged illegal activities has been forwarded to the Police Department for surveillance and enforcement.

On April 12, 2004, a Notice of Public Hearing for the Planning Commission meeting was mailed.

CONCLUSION

The proposed cupola signs are inconsistent with the purposes of the City's Sign Regulations. In staff's opinion, the business enjoys good visibility and identification and there are no special circumstances that would justify the approval of a variance. If the Planning Commission were to determine that signs permitted by the Sign Regulations and those allowed on the roof edge are not adequate to identify the business, then staff would suggest that other solutions be explored. For example, approval of a variance to retain the existing prohibited directional signs could contribute to the identification of the business.

Prepared by:



Erik J. Pearson, AICP
Associate Planner

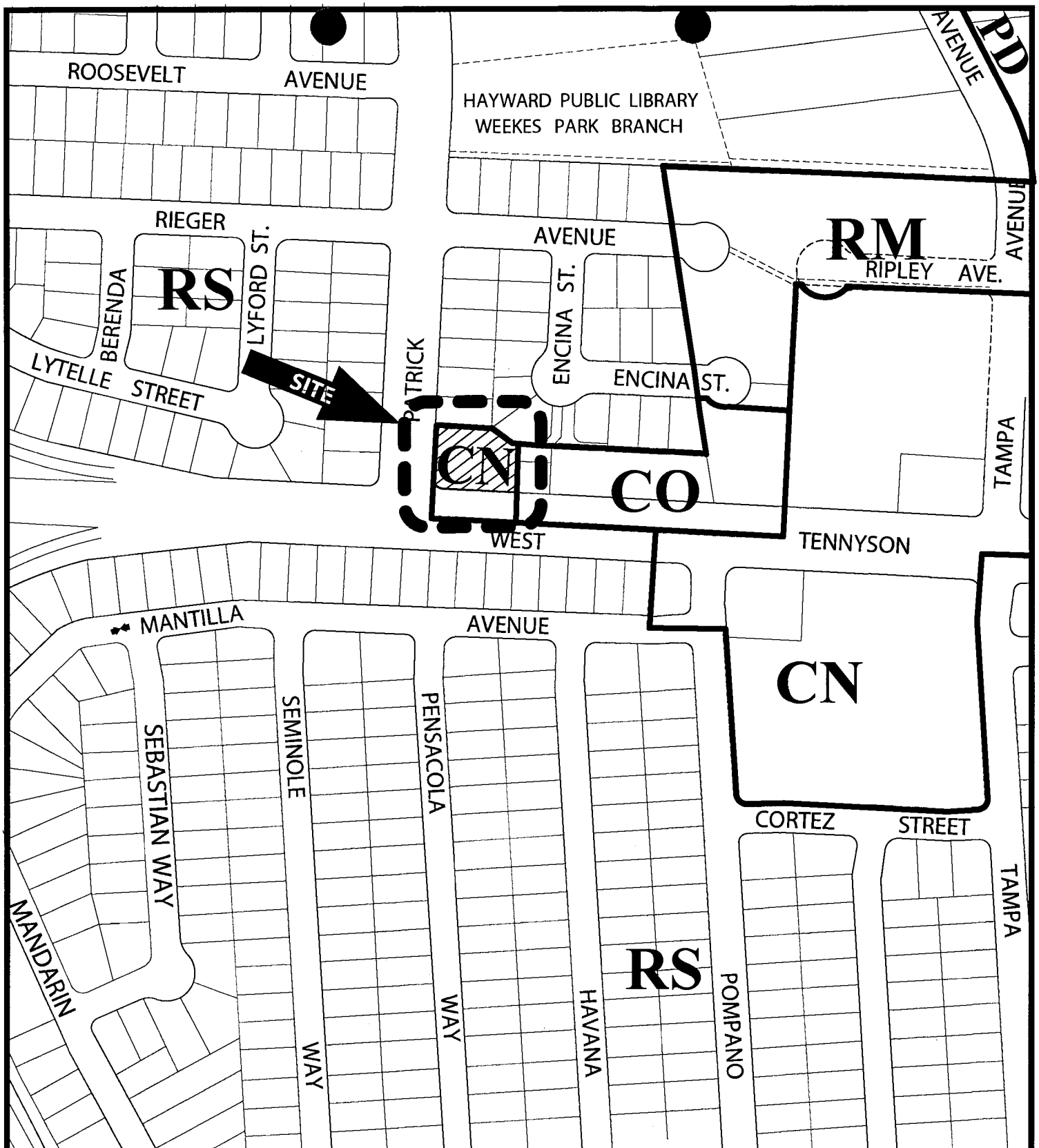
Recommended by:



Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area & Zoning Map
- B. Findings for Denial of Variance Application
- C. Letter and attachment from applicant
- D. E-mail from neighbor
Plans



Area & Zoning Map

PL-2004-0079 VAR

Address: 1285/1299 West Tennyson

Applicant: Sign Designs, Inc.

Owner: Harman Management

CN-Neighborhood Commercial

CO-Commercial Office

PD-Planned Development

RM-Medium Density Residential RMB 3.5, RMB 4

RS-Single-Family Residential,RSB4,RSB6



**CITY OF HAYWARD
PLANNING DIVISION
VARIANCE DENIAL**

April 22, 2004

Variance No. PL-2004-00079 – Request to Install Two Oversized Logo Signs on the Roof of an Existing Fast Food Restaurant (KFC) – David Grace for Sign Designs (Applicant)/ Harman Management (Owner)

The property is located at 1299 W. Tennyson Road, at the corner of Patrick Avenue, in a Neighborhood Commercial (CN) Zoning District

Findings for Denial:

- A. Denial of Variance Application No. 2004-0079, is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15305, *Minor Alterations in Land Use Limitations*.
- B. There are no special conditions or circumstances peculiar to the property involved that do not apply generally to property in the same district that warrant the proposed roof-mounted logo signs. Visibility of the restaurant is good in that the building's architecture, the monument sign and the directional signs provide adequate identification.
- C. Literal interpretation of this article would not cause a hardship or deprive the applicant of rights enjoyed by others in the same district in that roof signs are not permitted throughout the zoning district and the City. No similar roof signs have been approved in the same district.
- D. The granting of the variance would grant a special privilege inconsistent with the limitations on other properties in the same district. No precedent has been set where other properties have been permitted oversized or roof mounted signs.



INC.

Since 1971

February 23, 2004

To City of Hayward
777 B Street
Hayward, Ca
94541

Subject: KFC Signs at 1299 W. Tennyson Rd

To Whom it may concern:

My name is David Grace and I am the Permit Expediter for Sign Designs Inc. in Modesto California. This letter is a request of variance for new signs at the West Tennyson road location. We feel this letter along with the pictures of other local business in the surrounding area will prove we should be able to erect our signs to our customers standards, and still comply with the City of Hayward sign codes .

We have received a letter from the City of Hayward reequesting three findings that we must prove so the variance can be approved, they are as followed;

1. There are special conditions or circumstances peculiar to the property involved that do not apply generally to property in the same district.
2. Literal interpretations of this article would cause a hardship or deprive the applicant of rights enjoyed by others in the same district.
3. The granting of the variance does not grant a special privilege inconsistent with the limitations on other properties in the same district.

In reference to your first condition, the existing KFC two foot tall channel letters cannot be seen from the road thus losing business for this store. In regards to the second condition, we have worked for over a year with the City of Hayward to resolve this sign problem, thus causing a hardship on KFC. Lastly the attached photos will prove that other local business were allowed larger signs and logos for their store fronts.

In closing we feel we have proved that the signs that KFC are requesting should be allowed. If you have any questions of concerns you can contact me at the numbers below.

Sincerely,

David Grace
Sign Designs Inc
Permit Expediter

RECEIVED

FEB 24 2004

PLANNING DIVISION

(800) 421-7446
(209) 524-4484
FAX (209) 521-0272

P.O. Box 4590
204 Campus Way
Modesto CA 95352

State Contractors Lic. No. 268001

Project #
PL-2004-0079 VAR
ATTACHMENT C

#20642

Restaurants	Building Signage	Building Signage	Square Footage	Square Footage
Tennyson Road, Hayward	Height	Length	Per Wall Sign	Wall Signs
Jack In The Box (2 Roof Signs)	4.25	10	42.5	85
	measured			
Taco Bell	6	10	60	
	approximate			
Superway Kitchen Chop Suey	5	8	40	40
	approximate			
Restaurants				
Mission Blvd near Tennyson				
Baskin Robbins	2	21	42	67
"31" Logo Sign	5	5	25	
	approximate			
Burger King (2 wall signs)	4	4	16	32
	measured			
Los Dos Hermanos Restaurant	2.25	16.25	36.5625	36.56
Authentic Mexican Food	measured			
Jack In The Box	4	10	40	80
	approximate			

RECEIVED

FEB 24 2004

PLANNING DIVISION

Project #
PL-2004-0079 VAR